

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JONATHAN RODRIGUEZ,
Petitioner,

v.

OBERLANDER, et al.,
Respondents.

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CIVIL ACTION

No. 21-787

ORDER

AND NOW, this **26th** day of **August 2024**, upon consideration of the Petitioner's Habeas Corpus Petition (ECF No. 1), the *pro se* Amended Petition (ECF No. 15), the counseled Amended Petition (ECF No. 41), the counseled Amendment (ECF No. 42-1), the Commonwealth's Response (Document No. 54), Petitioner's Memorandum in Reply (ECF No. 55), the exhibits attached to the parties' filings, the other documents filed by the parties, and after review of the Report and Recommendation of United States Magistrate Judge Carol Sandra Moore Wells, it is hereby **ORDERED** that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**;
2. The Petition for Writ of Habeas Corpus is **GRANTED**, based upon Petitioner's claim that trial counsel was ineffective for failing to present available alibi witnesses;
3. Within 180 days of this order, the Commonwealth shall either retry Petitioner or release him from custody in case number CP-51-CR-9673-2010;
4. Petitioner's other claims are **DISMISSED** or **DENIED** as explained in the Report and Recommendation; and
5. Other than for his meritorious claim, Petitioner has neither shown a denial of a constitutional right, nor established that reasonable jurists would disagree with this court's disposition of his claims. Consequently, a certificate of appealability is **DENIED**.

BY THE COURT:

/s/ Chad F. Kenney

CHAD F. KENNEY, JUDGE